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FILED
 UNITED STATES DISTRICT COURT
 DISTRICT OF MASSACHUSETTS

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FEDERAL TRADE COMMISSION,
 Plaintiff
 v.

U.S. DISTRICT COURT
 DISTRICT OF MASS.

MAGISTRATE JUDGE Bowler

DIRECT MARKETING CONCEPTS, INC., d/b/a
 TODAY'S HEALTH and DIRECT FULFILLMENT,
 ITV DIRECT, INC., d/b/a DIRECT FULFILLMENT,
 DONALD W. BARRETT,
 HEALTHY SOLUTIONS, LLC d/b/a DIRECT
 BUSINESS CONCEPTS,
 HEALTH SOLUTIONS, INC.,
 ALEJANDRO GUERRERO, a/k/a ALEX GUERRERO,
 MICHAEL HOWELL, GREG GEREMESZ,
 TRIAD ML MARKETING, INC., KING MEDIA, INC.,
 and ALLEN STERN,
 Defendants.

Civ. No.

RECEIPT #
 AMOUNT \$ N/A
 SUMMONS ISSUED Yes
 LOCAL RULE 4.1 +
 WAIVER FORM +
 MCF ISSUED
 BY DPTY. CLK. F.O.M.
 DATE 6/1/04

**COMPLAINT FOR PERMANENT INJUNCTION AND OTHER
 EQUITABLE RELIEF**

Plaintiff, the Federal Trade Commission ("FTC or "Commission"), by its undersigned attorneys, alleges:

1. The FTC brings this action under Section 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 53(b), to secure permanent injunctive relief, restitution, disgorgement, and other equitable relief against Defendants for their deceptive acts or practices and false advertisements in connection with the advertising, promotion, and sale of purported "coral calcium" supplements and a dietary supplement called "Supreme Greens with MSM," in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction over this matter pursuant to 15 U.S.C. §§ 45(a), 52, and 53(b), and 28 U.S.C. §§ 1331, 1337(a), and 1345.

3. Venue in this District is proper under 15 U.S.C. § 53(b) and 28 U.S.C. § 1391(b) and (c).

THE PARTIES

4. Plaintiff, the Federal Trade Commission, is an independent agency of the United States Government created by the FTC Act. 15 U.S.C. §§ 41-58. The Commission enforces Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or practices in or affecting commerce. The Commission also enforces Section 12 of the FTC Act, 15 U.S.C. § 52, which prohibits false advertisements for food, drugs, devices, services, or cosmetics in or affecting commerce. The Commission, through its own attorneys, may initiate federal district court proceedings to enjoin violations of the FTC Act and to secure such equitable relief, including rescission and restitution, as may be appropriate in each case. 15 U.S.C. § 53(b).

5. Defendant Direct Marketing Concepts (“DMC”), sometimes doing business as “Today’s Health” and “Direct Fulfillment,” is a Massachusetts corporation with its principal place of business at 20 Oakpoint Ext., Saugus, MA, 01906 and also does business at 100 Cummings Center, Suite 139F, Beverly, MA, 01915. For more than two years, DMC, at times with its business partners Triad ML Marketing, Inc. and King Media, Inc., has promoted, marketed, offered for sale, and/or distributed coral calcium products through the use of an infomercial, print advertisements and other printed promotional materials, distributors, and retail outlets to consumers throughout the United States. From at least January 2002, and continuing

into 2003, DMC marketed “Coral Calcium Daily” and other coral calcium products to consumers throughout the United States through a variety of means, including a nationally disseminated infomercial in which Kevin Trudeau and Robert Barefoot appear as promoters of Coral Calcium Daily. In addition, since at least August 2003, DMC has promoted, marketed, offered for sale, and/or distributed a dietary supplement called “Supreme Greens with MSM” (“Supreme Greens”) to consumers throughout the United States through the use of one or more nationally disseminated infomercials, an Internet website –www.todayshealth.com/supremegreens– and printed promotional materials. Defendants Donald Barrett and Alejandro Guerrero appear in the Supreme Greens infomercial(s) promoting the product. DMC transacts or has transacted business in the District of Massachusetts.

6. Defendant ITV Direct, Inc. (“ITV”), sometimes doing business as “Direct Fulfillment,” is a Massachusetts corporation with its principal place of business at 100 Cummings Center, Suite 506E, Beverly, Massachusetts. Since at least August 2003, ITV has promoted, marketed, offered for sale, and/or distributed Supreme Greens to consumers throughout the United States through the use of one or more nationally disseminated infomercials, printed promotional materials, and Internet advertisements. ITV transacts or has transacted business in the District of Massachusetts.

7. Defendant Donald W. Barrett (“Barrett”) is the President and a Director of DMC, and the President and a Director of ITV. Since January 2002, Barrett, acting individually, or in concert with others, has promoted, marketed, offered for sale, and/or distributed the product Coral Calcium Daily and other coral calcium products to consumers throughout the United States through a variety of means, including a nationally disseminated infomercial featuring Kevin

Trudeau and Robert Barefoot as promoters of Coral Calcium Daily, as well as through print advertisements and other printed promotional materials. In addition, since at least August 2003, Barrett, acting individually, or in concert with others, has promoted, marketed, offered for sale, and/or distributed Supreme Greens to consumers throughout the United States through the use of one or more nationally disseminated infomercials, printed promotional materials, and Internet advertisements, as well as through other means. Barrett appears in the Supreme Greens infomercial(s) promoting the product. Barrett directs, controls, formulates, or participates in the acts and practices of DMC and ITV, including the acts and practices complained of below.

Barrett resides and transacts or has transacted business in the District of Massachusetts.

8. Defendant Healthy Solutions, LLC (“Healthy Solutions”), sometimes doing business as Direct Business Concepts, is a California limited liability company with its principal place of business at 9528 Miramar Rd., # 100, San Diego, CA 92126. Since at least August 2003, Healthy Solutions, acting alone or in concert with others, has promoted, marketed, offered for sale, and/or distributed Supreme Greens to consumers throughout the United States through the use of one or more nationally disseminated infomercials, as well as through other means. In April 2003, Healthy Solutions entered into an exclusive distribution agreement with defendant ITV in which Healthy Solutions, in addition to agreeing to supply ITV with the Supreme Greens product, granted ITV the right to promote Supreme Greens through the use of infomercial, print, radio, or any other media, and granted ITV permission to use Healthy Solutions’ trademarks and trade names in marketing Supreme Greens. Healthy Solutions also agreed to provide ITV with an “expert spokesperson,” designated as defendant Alejandro (“Alex”) Guerrero, for ITV’s use in producing the Supreme Greens infomercial. Healthy Solutions agreed as well to provide written

testimonials, marketing reference materials and other representations and assistance concerning Supreme Greens. Healthy Solutions transacts or has transacted business in the District of Massachusetts.

9. Defendant Health Solutions, Inc. is a California corporation with a principal place of business at 16843 Valley Boulevard, Suite 540 E, Fontana, California. Since at least August 2003, Health Solutions, Inc., acting alone or in concert with others, has promoted, marketed, offered for sale, and/or distributed Supreme Greens to consumers throughout the United States through the use of one or more nationally disseminated infomercials, as well as through other means. Health Solutions, Inc. has applied for the trademark rights to the Supreme Greens name and holds itself out on the website www.hsnow.com as the entity through which consumers can order Supreme Greens. Health Solutions, Inc. transacts or has transacted business in the District of Massachusetts.

10. Defendant Alejandro Guerrero, also known as Alex Guerrero (“Guerrero”), is a California resident and President and director of Health Solutions, Inc. Guerrero, acting individually, or in concert with others, has promoted, marketed, offered for sale, and/or distributed Supreme Greens to consumers throughout the United States since at least August 2003, through the use of one or more nationally disseminated infomercials, as well as through other means. Guerrero is the owner of the trade secret formula for Supreme Greens and appears in the Supreme Greens infomercial(s) promoting the product. Guerrero directs, controls, formulates, or participates in the acts and practices of Health Solutions, Inc. and has engaged in the acts and practices alleged in this complaint. Guerrero transacts or has transacted business in the District of Massachusetts.

11. Defendant Michael Howell (“Howell”) is a California resident, President of Healthy Solutions, and an officer of Health Solutions, Inc. Since at least August 2003, Howell, acting individually, or in concert with others, has promoted, marketed, offered for sale, and/or distributed Supreme Greens to consumers throughout the United States through the use of one or more nationally disseminated infomercials, as well as through other means. In April 2003, Howell, as President of Healthy Solutions, entered into an exclusive distribution agreement with ITV for Supreme Greens. Howell directs, controls, formulates, or participates in the acts and practices of Healthy Solutions and Health Solutions, Inc., including the acts and practices complained of below. Howell transacts or has transacted business in the District of Massachusetts.

12. Defendant Greg Geremesz (“Geremesz”) is a California resident, a member and the registered agent of Healthy Solutions, and an officer of Health Solutions, Inc. Since at least August 2003, Geremesz, acting individually, or in concert with others, has promoted, marketed, offered for sale, and/or distributed Supreme Greens to consumers throughout the United States through the use of one or more nationally disseminated infomercials as well as other means. Geremesz directs, controls, formulates, or participates in the acts and practices of Healthy Solutions and Health Solutions, Inc., including the acts and practices complained of below. Geremesz transacts or has transacted business in the District of Massachusetts.

13. Defendant Triad ML Marketing, Inc. (“Triad”), is a Pennsylvania corporation with its principal place of business at 656 E. Swedesford Road, Suite 330, Wayne, PA, 19087. For more than two years, Triad, at times with its business partners DMC and King Media, Inc., has promoted, marketed, offered for sale, and/or distributed coral calcium products through the use

of an infomercial, television advertisement, distributors, and retail outlets to consumers throughout the United States. Triad has marketed the product Coral Calcium Daily since at least January 2002, and until at least November 2002, through a nationally disseminated infomercial, in which Kevin Trudeau and Robert Barefoot appear as promoters of the product. In addition, Triad contracted for and oversaw procurement of, and fulfillment of consumer orders for, the Coral Calcium Daily product. Triad's merchant account was used to process credit card transactions for consumer orders for Coral Calcium Daily and to administer customer refunds. Triad also applied for the trademark for Coral Calcium Daily. Subsequently, Triad has marketed Coral Calcium Daily through a 30-second television advertisement and retail outlets. Triad transacts or has transacted business in the District of Massachusetts.

14. Defendant King Media, Inc. ("King Media") is a Pennsylvania corporation with its principal place of business at 656 E. Swedesford Road, Suite 325, Wayne, PA, 19087. For more than two years, King Media, at times with its business partners DMC and Triad, has promoted, marketed, offered for sale, and/or distributed coral calcium products through the use of infomercials and a television advertisement to consumers throughout the United States. Since at least January 2002, and continuing thereafter through at least November 2002, King Media marketed "Coral Calcium Daily" by purchasing media time for the nationally disseminated infomercial, in which Kevin Trudeau and Robert Barefoot appear as promoters of the product. King Media also financed the dissemination of the infomercial for some time on behalf of Defendant DMC. King Media also has been involved in marketing Coral Calcium Daily by purchasing media time for the 30-second television advertisement. King Media transacts or has transacted business in the District of Massachusetts.

15. Defendant Allen Stern (“Stern”) is President of Triad and King Media. Since at least January 2002, Stern, acting individually, or in concert with others, has promoted, marketed, offered for sale, and/or distributed coral calcium products to consumers throughout the United States through a nationally disseminated infomercial, a television commercial, and retail outlets. He directs, controls, formulates, or participates in the acts and practices of Triad and King Media, including the acts and practices complained of below. Stern transacts or has transacted business in the District of Massachusetts.

16. Defendants Triad, King Media, and Stern have operated a common business enterprise while engaging in the deceptive acts and practices alleged below and are therefore jointly and severally liable for said acts and practices.

COMMERCE

17. The acts and practices of DMC, ITV, Barrett, Healthy Solutions, Health Solutions, Inc., Howell, Geremesz, Guerrero, Triad, King Media, and Stern (collectively, “Defendants”) alleged in this Complaint are or have been in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. §§ 44.

DEFENDANTS’ COURSE OF CONDUCT

Coral Calcium Daily

18. Since at least January 2002, Defendants DMC, Barrett, Triad, King Media, and Stern (collectively, the “Coral Calcium Defendants”) have manufactured, labeled, advertised, offered for sale, sold, and/or distributed Coral Calcium Daily to the public throughout the United States. Coral Calcium Daily is a dietary supplement that purportedly contains a form of calcium derived from marine coral. Through their business venture, the Coral Calcium Defendants have

promoted Coral Calcium Daily as an effective means to prevent, treat, and cure cancer, heart disease, and various degenerative and autoimmune diseases.

19. The cost to consumers for a one-month supply of Coral Calcium Daily, which consists of a 90-capsule bottle, ranges from \$14.95 to \$39.95, plus shipping and handling. According to the bottle's label, a daily serving size of Coral Calcium Daily is three capsules, which in total contains 530 milligrams of calcium.

20. The Coral Calcium Defendants have primarily advertised Coral Calcium Daily through two means: (1) a nationally disseminated, 30-minute television infomercial; and (2) print advertisements appearing in free-standing newspaper inserts ("FSIs"), which are inserted in local Sunday newspapers. *See* Exhibit 1 (copy of 30-minute infomercial); Exhibit 2 (transcript of infomercial); and Exhibit 3 (copy of print advertisement that appeared in an FSI inserted in a San Francisco-based newspaper). The infomercial has aired on national cable networks such as PAX Television, Women's Entertainment, TV Food Network, E! Entertainment Television, the Outdoor Channel, the Travel Channel, Access Television, and Bravo. During the course of the infomercial, the Coral Calcium Defendants supplied viewers with a toll-free telephone number to call to purchase Coral Calcium Daily. The Coral Calcium Defendants also have included product brochures along with the Coral Calcium Daily product shipped to consumers. *See* Exhibit 4 (a promotional letter signed by defendant Barrett). Coral Calcium Daily also is or has been available for purchase through retail outlets such as CVS, Rite Aid, Walgreen's, and General Nutrition Centers (GNC), and via the Internet. Finally, Defendants Triad, King Media, and Stern also have advertised Coral Calcium Daily through a 30-second television advertisement.

21. To induce consumers to purchase Coral Calcium Daily, the Coral Calcium

Defendants have widely disseminated advertisements and promotional materials, including, but not limited to, Exhibits 1 through 4, containing, among others, the following statements:

A. KEVIN TRUDEAU: Okay. So here's the question. I asked myself, will I get cancer? Can I know?

ROBERT BAREFOOT: Yes.

KEVIN TRUDEAU: I mean, people out there watching right now are all wondering, I hope I don't get cancer or I wonder if I am going to get cancer.

ROBERT BAREFOOT: Yes.

KEVIN TRUDEAU: Is there a way for us to know whether we will or won't?

ROBERT BAREFOOT: Yes, there is, and it's very simple. First off, we just review what you're eating. Are you getting the minerals? And if you're not, you will become acidic and you will get one of the major diseases. You can have heart disease, cancer, lupus, fibromyalgia, multiple sclerosis. Name the disease, they're all caused by acidosis.

* * *

KEVIN TRUDEAU: Okay. Now, here's the question. So, if that's the case, is there a way to change the body pH from being acidic to being more alkaline?

ROBERT BAREFOOT: Yes, you need to enrich the body with minerals and there are all kinds of minerals and all kinds of ways of doing that, some vastly superior to others.

KEVIN TRUDEAU: Okay. What's a good way, in your opinion, that a person can get rid of that acidity?

ROBERT BAREFOOT: Well, they have to consume a lot more calcium. You see, just like you've heard in the past, there are cultures all over the world that never get sick and they live to be 100, and all these cultures have one thing in common and it doesn't matter whether the Hunzas in Pakistan or the Titicaca Indians – in China, there's a band of millions of them, or the Okinawans over in Japan, on the Oprah Winfrey Show talked

about how they live long and they never get sick. * * * They all have one thing in common. They all consume over 100,000 milligrams of calcium a day * * * They eat 100 times as much as you and I.

KEVIN TRUDEAU: Is that the only common denominator, consuming more calcium?

ROBERT BAREFOOT: No, the other common denominator is they're all in the sun for several hours a day.

Ex. 2 (transcript of infomercial) at p. 5, line 20 through p. 6 line 10; p. 8, line 3 through p. 9 line 9.

- B. KEVIN TRUDEAU: Okay. Now, so, are you saying the simplest thing a person can do to increase their health is consume more calcium?

ROBERT BAREFOOT: That's the case, and that's why all these cultures all over the world, who eat 10 to 100 times as much as we do, virtually never have heart disease or cancer.

KEVIN TRUDEAU: Okay. But I can't go to a store, a drug store or a health food store, and just get calcium in a bottle, in a pill and take it.

ROBERT BAREFOOT: No.

KEVIN TRUDEAU: Because you're saying that's not going to have as good of an effect.

ROBERT BAREFOOT: No, no, no, and it's really the wrong thing to do. I tell people who drink milk, you can drink more, but I never tell you to drink milk if you don't because, you see, the milk contains a lactic acid which will aggravate your acid problem. So, it's not necessarily the thing to do. When we discovered back in '82, when we knew that the calcium factor was the key to these people staying healthy, we discovered that in Okinawa, that they were eating this coral sand called coral calcium. Well, boy, since 1982, we've been studying the coral calcium and I can tell you there are tens of millions of people, millions of testimonials. I've had 1,000 people tell me how they've cured their cancer. I've witnessed people get out of wheelchairs with multiple sclerosis just by getting on the coral.

Ex. 2 at p. 19, line 12 through p. 20, line 15.

- C. ROBERT BAREFOOT: There's no such thing as a bad nutrient. Some

are much better than others. The real key with calcium is it does not want to absorb in the human body. If you, for example, take a calcium antacid, it will absorb 2 percent. If you take milk, you absorb 17 percent. If you take some of these citrates, you absorb 10 percent.

KEVIN TRUDEAU: Um-hum.

ROBERT BAREFOOT: But you know, there is a substance out there where you get 100 percent absorption.

KEVIN TRUDEAU: Hmm.

ROBERT BAREFOOT: And America hasn't heard about it. And that's strange because, you know, for hundreds of years, tens of millions of people around the world have taken it. Today, there are tens of millions of people around the world that are taking this substance with 100 percent absorption.

KEVIN TRUDEAU: And this is the coral from –

ROBERT BAREFOOT: Yes.

KEVIN TRUDEAU: – Okinawa, Japan that people add in water.

ROBERT BAREFOOT: Yeah.

Ex. 2 at p. 11, line 14 through p. 12, line 10.

D. [ON SCREEN: 1-800-870-4122]

* * *

KEVIN TRUDEAU: * * * If you want information on these books or the coral calcium, just call the number on your screen for some more information.

Ex. 2 at p. 17, line 22 through p. 18, line 11.

E. KEVIN TRUDEAU: You're saying if a person wants to be healthier, to live longer –

ROBERT BAREFOOT: Yes.

KEVIN TRUDEAU: – disease-free in your opinion, they do two simple things, stay in the sun two hours a day, get sunlight on their face –

ROBERT BAREFOOT: And take coral calcium.

KEVIN TRUDEAU: And that's it?

ROBERT BAREFOOT: That's it. And, boy, I can introduce you to thousands that do and you won't believe their stories.

KEVIN TRUDEAU: But will people feel a difference if they're –

ROBERT BAREFOOT: Oh, yes. Oh, yes. Especially those that were sick. People don't come to me, you know, with a disease, they come to me dying and they don't die.

KEVIN TRUDEAU: But taking –

ROBERT BAREFOOT: And all they do is change their lives.

KEVIN TRUDEAU: But taking calcium is not a cure for anything.

ROBERT BAREFOOT: No, no. What the calcium does is it gives the body what it needs to cure itself. You know, with your DNA, you can grow a whole new brain? Now, they're discovering this. You can grow whole new body parts. But your DNA only will work when smothered in calcium. So, you've got to give it a chance. Look at these people like Michael Fox who got Parkinson's, which we know is caused by free radicals chewing up his brain.

KEVIN TRUDEAU: Um-hum.

ROBERT BAREFOOT: Free radical, by definition, is starved for electrons and it's positively charged. Now, if you smother it in electrons, you destroy it. So, if you make your body alkaline by taking calcium, the free radicals are destroyed on entry, you can't get Parkinson's. In other words, every disease can be explained.

KEVIN TRUDEAU: Then why doesn't – why isn't he taking calcium?

ROBERT BAREFOOT: You can't get to Michael J. Fox. I've tried and –

KEVIN TRUDEAU: Michael J. Fox, if you're watching right now or if

somebody's watching that knows, get some calcium. That's what you're telling him?

ROBERT BAREFOOT: Oh, yes. The first thing we can do is arrest the disease and stop it from happening further. Then what we want is for his DNA to kick in and help him grow a new brain.

Ex. 2 at p. 32, line 1 through p. 33, line 25.

- F. ROBERT BAREFOOT: * * * But the best way, of course, is to consume it whole.

KEVIN TRUDEAU: The actual coral itself?

ROBERT BAREFOOT: Yes. In capsule form.

KEVIN TRUDEAU: Oh, really? And so, this actually is adding calcium into your system.

ROBERT BAREFOOT: Yes. As a matter of fact, since within about 20 minutes you get 100 percent absorption, you're literally getting 50 times as much calcium, 50 times as fast if you take the coral calcium versus, say, an antacid calcium.

Ex. 2 at p. 13, line 18 through p. 14, line 3.

- G. KEVIN TRUDEAU: Now, the medical community would say to say that calcium is a cure for cancer is ridiculous.

ROBERT BAREFOOT: Then why did the Journal of the AMA this year quote the Strang Cancer Research Institute and said that calcium supplements reverse cancer. That's a quote from the Journal of the AMA and they quoted how much. They said 1,500 milligrams a day is enough to reverse colon cancer and they said other cancers will grow back to normal. They don't use the "cure" word, they say grow back to normal. But the Journal of the AMA is quoting medical researchers now that say, calcium reverses cancer.

Ex. 2 at p. 20, line 16 through p. 21, line 3.

- H. KEVIN TRUDEAU: * * * I was just watching TV yesterday. There was a doctor on and the question was, what – how do we know if you're going to have cancer? And the doctor said, if your genetic make-up is for cancer,

like, you know, there was cancer in your mother's side of the family and there was cancer in your father's side, you have a high chance of having cancer.

ROBERT BAREFOOT: Not if you're on calcium.

KEVIN TRUDEAU: And – but there's got to be somebody – a doctor would say, that has to be just your opinion, there's no scientific basis for that statement.

ROBERT BAREFOOT: Oh, yeah. But then I go to the Strang Cancer Research Institute, I quote the Journal of the AMA. Doctors are too busy to read their own journals. How many doctors read the article that calcium supplements prevent cancer?

KEVIN TRUDEAU: That's what the article said?

ROBERT BAREFOOT: In their own journal. Yes. And it – that's a quote. And it said it from, also, the New England Journal of Medicine also carried the same story with the same quote.

Ex. 2 at p. 27, line 16 through p. 28, line 11.

I. **The Scientific Secret of Health and Youth Finally Revealed...
THE CALCIUM FACTOR**

Coral Calcium's miraculous age-defying power has been reported to have been used for centuries by the people of Okinawa, Japan to prevent and even reverse **Heart Disease, Cancer, Parkinson's Disease, Arthritis, Alzheimer's, Diabetes, and more.**

* * *

An intriguing culture in Okinawa, Japan lives an average life span of over 100 years without doctors and without disease! It was discovered that their calcium rich waters act as an elixir of life which perfectly balances their body's pH level to alkaline rather than acid, allowing their bodies to naturally fight and even reverse life-threatening diseases such as diabetes, arthritis, Alzheimer's disease, heart disease, and even cancer!

* * *

[Y]ou too can join the millions of people who have unlocked their bodies' self-curing potential with all natural **100% pure Coral Calcium Daily!**

This amazing nutrient, with over 70 additional trace minerals, digests easily with **100% absorption in just 20 minutes.**

Ex. 3 (print advertisement) (emphasis in original).

J. **To:** Our Valued Customer
 From: Donald Barrett
 President
 Today's Health

My name is Donald Barrett and I am the President of Today's Health in Beverly, Massachusetts. We are the largest distributor of marine-grade coral calcium in the United States.

I was raised in the town of Saugus, just a few miles north of Boston. In February 1997 my father, who is my best friend, was diagnosed with a severe Carcenoid liver cancer. Our physician's prognosis was grim. My family was willing to try anything to find a solution.

In searching for an alternative therapy, a friend introduced us to marine-grade coral calcium from Okinawa, Japan. The island's inhabitants, whose rate of affliction with cancer and other degenerative diseases is less than 10%, get coral calcium daily through the water they drink. We gave the coral calcium to my father and within a few months the tumors started to shrink. Within a year no traces of cancer remained.

"I thank God first...and coral calcium second."

In short, coral calcium added years to my father's life...and it inspires me now to bring it to the world.

* * *

Donald Barrett

Ex. 4 (product insert, promotional letter) (emphasis in original).

22. The Coral Calcium Defendants also marketed Coral Calcium Daily through distributors, by selling "Starter" kits to distributors containing multiple bottles of Coral Calcium Daily as well as videotape copies of the infomercial, audio tapes promoting the product, and

other materials. The “Starter” kits cost approximately \$299.00, plus shipping and handling.

Supreme Greens with MSM

23. Since at least August 2003, Defendants DMC, ITV, Barrett, Healthy Solutions, Health Solutions, Inc., Guerrero, Howell, and Geremesz (collectively, the “Supreme Greens Defendants”) have manufactured, labeled, advertised, offered for sale, sold, and/or distributed Supreme Greens to the public throughout the United States. Supreme Greens is a dietary supplement purportedly comprised of numerous organically grown grasses, vegetables, sprouted grains, blood-purifying and immune-enhancing herbs, and antioxidants. The Supreme Greens Defendants have promoted the product as, among other things, an effective treatment, cure and preventative for cancer, heart disease, arthritis, and diabetes, and as a means of achieving substantial weight loss of up to 80 pounds in 8 months. In addition, Defendants have claimed that Supreme Greens can be taken safely by pregnant women, children – including children as young as one year old – and any person taking any type of medication.

24. The cost to consumers for a one-month supply of Supreme Greens – a 180-capsule bottle of the product – ranges between \$32.98 and \$49.99, plus shipping and handling. According to the product label, a daily dose – 3 capsules taken twice daily – contains a “proprietary blend” of 39 different ingredients, including wheat grass, grapefruit pectin, MSM, barley grass, and alfalfa sprouts, plus rice powder and gelatin.

25. The Supreme Greens Defendants have primarily advertised Supreme Greens through one or more nationally disseminated, 30-minute television infomercials. *See* Exhibit 5 (copy of one 30-minute version of the Supreme Greens infomercial); Exhibit 6 (transcript of same version of the infomercial). In addition, the Supreme Greens defendants have promoted the

product through the Internet websites www.todayshealth.com/supremegreens, www.supremegreens.com, www.supreme-greens.com, and www.hsnow.com. See Exhibit 7 (printout of www.todayshealth.com/supremegreens). The infomercial has aired on national cable networks such as SpikeTV, the Outdoor Channel, WE (Women's Entertainment), and PAX Television. During the course of the infomercial, the Supreme Greens Defendants supply viewers with a toll-free telephone number to call to obtain more information about, or purchase, the Supreme Greens product. The Supreme Greens Defendants also market Supreme Greens to consumers via the Internet.

26. To induce consumers to purchase Supreme Greens, the Supreme Greens Defendants have widely disseminated advertisements and promotional materials, including, but not limited to, Exhibits 5 through 7, containing, among others, the following statements:

- A. MR. BARRETT: My name is Donald Barrett and on our show today we have one of the leading experts and researchers in alternative health care, Dr. Alex Guerrero.

**ON SCREEN:
ITV
ARE ALL HEALTH PROBLEMS
CAUSED BY AN ACIDIC BODY?**

MR. BARRETT: Dr. Guerrero claims that most chronic degenerative diseases – such as cancer, arthritis, diabetes, even the number one killer out there, heart disease – can and are being cured and there are natural healing techniques being suppressed in this country. We have a very controversial show, so stay with us.

Ex. 6 (transcript of infomercial) at p. 3, line 15 through p. 4, line 4.

- B. MR. BARRETT: You treat all types of people from pro athletes in their prime of life?

DR. GUERRERO: Yes.

MR. BARRETT: All the way to people that, you know, have chronic disease that their doctors have told them to really get their affairs in order and go home.

DR. GUERRERO: Yeah. I mean, our primary concern – at least in my clinic, anyway, is to make sure that the body, you know, stays in an environment that's conducive for cell regeneration. You know, we do a lot of weight loss, we do a lot of anti-aging, we do a lot of, you know, making sure professional athletes can stay at their peak performance all the time. And we also see people that have chronic conditions – like you mentioned before, we've got cancer patients, [AIDS] patients, people with MS, diabetes, Parkinson's. * * *

MR. BARRETT: But you're treating them with natural therapies.

DR. GUERRERO: We are.

MR. BARRETT: All natural?

DR. GUERRERO: All natural. The purpose really is to give them something that provides – that changes the environment, that makes the environment now conducive to cellular regeneration, rather than an environment that promotes degeneration.

Our cells regenerate on cycles. For example, you get new skin cells every 30 days, you're getting new bone cells every 120 days. So if the environment, your internal environment, Don, is now conducive to the regeneration of that cell – that's what it does, it regenerates – if the environment isn't, well, then you're going to degenerate. And that's what we call aging.

* * *

MR. BARRETT: You teach them of this acid alkaline balance in the body, because it's simple for people to understand and when they alkalize their body, as you say, they're in a better position to heal themselves?

DR. GUERRERO: Absolutely.

MR. BARRETT: Versus an acid body?

DR. GUERRERO: Well, from, you know, in – in biology we've learned that you've got disorders like yeast, fungus, bacterias, viruses, molds, all those are living organisms that need an environment in which to thrive and proliferate and grow. And they can only survive in an acid base. So if we can change the body's fluids and tissues to a more alkaline base, now you have an environment that is no longer conducive for the proliferation or growth of a degenerative condition.

MR. BARRETT: And when you alkalize the body, these – a lot of these symptoms, a lot of these diseases are going to –

DR. GUERRERO: Well, they –

MR. BARRETT: – fall by the wayside.

DR. GUERRERO: Well, they all do, because they're a result of over acidification of the blood and tissues. And so when the blood and tissue are in an acid base – it's like what acid rain would do to a paint job on a car.

MR. BARRETT: Yeah, it would ruin it.

DR. GUERRERO: That's what – that's what your body fluids, your acidic body fluids are doing to your internal organs.

Ex. 6 at p. 5, line 22 through p. 7, line 6; p. 8, line 10 through p. 9, line 15.

C. MR. BARRETT: And now here's the question: If I alkalize my body, am I going to come up with one of these chronic degenerative diseases?

DR. GUERRERO: No.

MR. BARRETT: Such as cancer, arthritis –

DR. GUERRERO: No.

MR. BARRETT: How can you say that so confidently?

DR. GUERRERO: I'm very confident in saying that, primarily because of the clinical studies we've done. I've seen it in my – in my – in my clinical practice. I've seen it every day in my clinical practice.